

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Project Management Guidance Letter Number 4, Credit for Local Sponsor Cost Associated with Project Activities

1. References:

a. ER 1165-2-131, 15 April 1989, Local Cooperation Agreements for New Start Construction Projects, Section 5.d and e; Appendix A: Articles I, II, IV, V, X, XI: and Appendix D, Articles I, II, IV, V, X and XI.

b. OMB Regulation A-87

2. The policy for crediting the costs associated with the local sponsor's efforts towards implementation of a project is generally established by the above cited references.

3. Specifically, credit will be allowed for all reasonable, allocable and allowable costs incurred or accrued by the local sponsor in connection with its non-Federal responsibilities associated with the project. This includes the actual cost of efforts to acquire Lands, Easements, Rights-of-Way, and provision of Relocations and Disposal areas (LERRD) required for the project, either 5 years prior to or any time after execution of the LCA. These creditable costs include the necessary Engineering & Design costs, actual project management costs as well as the actual costs of establishing and maintaining management systems necessary to conduct non-Federal LERRD responsibilities. Credit for the actual value of LERRD is discussed throughout reference 1a.

4. Costs incurred and/or accrued by the non-Federal sponsor which complement Federal project responsibilities for construction of the project are not creditable. Such costs include but are not limited to: participating in and attending meetings to formally develop and negotiate the LCA; efforts related to developing a financing plan and costs associated with actually obtaining and managing local funds; review of the engineering and design documents related to the construction of the project; a construction inspector specifically appointed or hired by the local sponsor to oversee construction; and attending meetings to discuss the progress of construction.

5. Where non-Federal interests actually undertake construction of all or part of the authorized project under a specific statutory authority allowing construction of features of authorized projects, or construction under the provisions of Section 215 of the Flood Control Act of 1968, as amended, and Sections 104 and 204 of Public Law 99-662, or for Hazardous and Toxic Waste investigations when deemed warranted by the Government and the sponsor, the sponsor's reasonable, allocable and allowable costs associated with engineering, design, construction, supervision, administration, inspection and investigation as well as the costs of these functions, themselves, would be eligible for

credit. The approval of such a request would be formalized in a separate agreement prepared in accordance with the regulations that govern the implementation of such actions.

6. While the LCA executed by the local sponsor and the Federal Government urges close cooperation and joint management of the project throughout its design and construction, and indeed the sponsor has the prerogative of conducting such activities in any way they see fit, it is the responsibility of the Federal Government's Contracting Officer to assure that design and construction of the project takes place in compliance with the plans and specifications and in a timely and efficient manner. This approach is significantly different from the approach taken in crediting the local sponsor for their efforts in connection with conducting the Feasibility Study for the project. In conducting the feasibility study, all negotiated costs for efforts performed by the sponsor up to the issuance of the Division Engineer's notice, including but not limited to: labor, (direct and indirect), overhead, supervision & administration, travel, costs associated with the attendance at meetings, (both locally and in Washington, if necessary), are included in total project cost and cost shared. This distinction must be made clear to sponsors in the earliest stages of LCA negotiation (during Feasibility), in order to avoid confusion and erroneous expectations as the project progresses toward construction.

7. Only those actual associated costs stipulated in paragraph 3 or 5 are eligible for credit and are to be included in total project costs and cost shared based on project purposes. The one exception to this rule would be costs associated with a final audit of the project . Any costs encountered by the sponsor in auditing the Federal records on the project to assure that their funds were properly used are allowed to be included in total project cost and cost shared.

FOR THE DIRECTOR OF CIVIL WORKS:

/s/

BORY STEINBERG
Chief, Project Management Division
Directorate of Civil Works